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West Des Moines City Council Proceedings
Monday, August 11, 2014

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, August 11, 2014 at 5:30 PM. Council members present were: R. Messerschmidt, J. Mickelson, and K. Trevillyan. Council member R. Trimble participated by telephone.

On Item 1. Agenda. It was moved by Trevillyan, second by Messerschmidt approve the agenda as presented.

Vote 14-350: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 2. Public Forum:

Mike Mallaney, 5600 Woodland Avenue, expressed concerns about the emerald ash borer's potential impact to the ash trees in the right-of-way within his neighborhood. He stated the residents of his neighborhood have signed a petition, requesting the City not remove the ash trees, and he noted the residents would be willing to pay for any treatment to maintain and/or protect the ash trees.

Mayor Gaer stated the Council will have a workshop on September 22 to discuss alternatives for addressing the emerald ash borer.

On Item 3. Council/Manager/Other Entities Reports:

Council member Mickelson reported he and Council member Messerschmidt met with residents to discuss the new Barnes Estates development. He stated the residents present at the meeting expressed concerns about construction vehicle traffic passing through their residential streets to access the new development, and the developer has since agreed to route all construction vehicle traffic off of 60th Street to avoid the residential streets. He stated the residents also expressed concerns about trash and noise from the construction area, and the developer has stated they have hired a professional contractor for the project and there will be a construction manager that will be a point of contact should the residents have any concerns. Another concern expressed by the residents present at the meeting was the lack of a park in the neighborhood. Council member Mickelson stated he wishes the City could put a park in the area, but after staff has reviewed every possible alternative, it was determined that a park could not be located in the neighborhood because all the land in the area is owned by private entities and the Barnes Estates developer has already met the requirements for parkland dedication.

Council member Messerschmidt reported he attended a meeting of the Public Works Subcommittee, where an update was given on phase three of the Valley Junction Alley

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Improvements project and discussion was held on parking needs in the area of the new Polk County Community Center and new Human Services Building in the 100 block of 6th Street. He noted the relocation of Human Services will likely take place in mid-October.

City Manager Tom Hadden stated he believes the Barnes Estates development is a positive thing for the area because it will be made up of single family homes as opposed to a higher density, as is often requested by developers. He reported an informational meeting for those area residents interested in connecting to the City's sewer will be held on August 26th, as the Barnes Estates project will make sewer connection available to those properties.

On Item 4. Consent Agenda.

Council members pulled Items 4(e) and 4(f) for discussion. It was moved by Messerschmidt, second by Trevillyan to approve the consent agenda as amended.

- a. Approval of Minutes of July 28, 2014 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. MVC Acquisition, LLC d/b/a Cabaret, 560 Prairie View Drive, Suite 105 - Class LC Liquor License Extension of Outdoor Service - August 22-23, 2014
 - 2. Frank's Divine Pie 8950, d/b/a Gusto Pizza Company, 8950 University Avenue - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
 - 3. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - August 20-21, 2014
 - 4. Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License Extension of Outdoor Service - August 16-17, 2014
 - 5. Richman Enterprises, LLC, d/b/a Krueger BP, 1272 8th Street - Class BC Beer Permit - Renewal
 - 6. Trader Joe's East, Inc., d/b/a Trader Joe's #721, 6305 Mills Civic Parkway - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
 - 7. Stu's Petroleum, d/b/a Valley West Corner Store, 1400 Valley West Drive - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
- d. Approval of Lane Closure(s) for Special Events - Block Party - 3000 Block of Giles Street, August 23, 2014
- g. Approval of Professional Services Agreement - WestCom CAD and Police RMS Software
- h. Order Construction:
 - 1. 139 6th Street Fiber Optic Connection Project
 - 2. 39th Street Paving Project
- i. Approval of 28E Agreement - Teen Center
- j. Approval of Grant Application - Traffic Safety Improvement Program - Pedestrian Countdown Clock Signal Indications

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- k. Approval and Acceptance of Non-Interference Agreement - 1200 South 95th Street
- l. Approval and Acceptance of Pedestrian Easement - Iowa ENT Clinic, 105 Valley West Drive
- m. Approval of Polk County Multijurisdictional Hazard Mitigation Adoption Plan
- n. Establishing Fair Market Value and Approving the Acquisition of Property - Ashworth Road Low Pressure Sewer System
- o. Approval and Acceptance of Purchase Agreement and Easements:
 - 1. Cascade Avenue Trunk Sewer Project
 - 2. Fox Creek Sanitary Sewer Project
- p. Acceptance of Public Improvements:
 - 1. Etzel Properties Plat 1
 - 2. Galleria at Jordan Creek Plat 14
 - 3. Westown Park, Lots 3 and 15

Vote 14-351: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 4(e) Approval to Sell Surplus City Equipment

Council member Trevillyan inquired if the prices listed in the Council communication for each item are the starting bids for the items.

Bret Hodne, Public Works Director, responded the numbers listed are the base prices that the City would accept as a minimum, and bids are made on the items on an electronic auction.

Council member Trimble inquired if the items are offered to West Des Moines citizens before going out to auction, and he inquired about the cost to the City to use Govdeals.com.

Mr. Hodne responded the online auction is open to anyone from the public in compliance with public bidding laws and nothing is offered specifically for West Des Moines residents. He stated the cost to the City to use Govdeals.com is a small percentage of the selling price for each item.

It was moved by Trevillyan, second by Messerschmidt to approve Item 4(e) Approval to Sell Surplus City Equipment.

Vote 14-352: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 4(f) Approval of Change Order #4 - 139 6th Street Building Renovation

Council member Trimble inquired why the items added by this change order weren't originally included in the project

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Duane Wittstock, City Engineer, responded the need for many of the items was discovered during the demolition process, as there was more demolition work needed than originally anticipated.

Council member Trevillyan noted this change order was reviewed by the Public Works Subcommittee, and the wiring was added because the demolition presents an opportunity to more easily have the work done.

It was moved by Trimble, second by Trevillyan to approve Item 4(f) Approval of Change Order #4 - 139 6th Street Building Renovation.

Vote 14-353: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 5(a) Issuance of Not to Exceed \$14,500,000 General Obligation Bonds, initiated by the City of West Des Moines

Jenny Blankenship, Public Financial Management, presented the tabulation of bids for this bond issuance and reported twelve bids were received, which included 52 bidders that went in as syndicates. She stated the low bid, submitted by Stifel Nicolaus & Company, came in at a true interest rate of 1.9578 percent. She noted that by including the refunding of outstanding general obligations bonds, series 2007A, with this bond issuance, the City is saving \$95,000. She noted after the bids were received, the aggregate par amount of the bonds was decreased to \$13,375,000.

Mayor Gaer requested staff update the City's list of savings from bond refinances and present it at the next meeting of the Finance and Administration Subcommittee.

It was moved by Trevillyan, second by Messerschmidt to adopt Motion - Receive and File Report of Bids, Resolution - Award Sale and Resolution - Authorize Redemption of Outstanding General Obligation Bonds, Series 2007A.

Vote 14-354: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 5(b) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 8 (One-Way Traffic Required) - One-Way Traffic Required: Alley between 6th Street and 7th Street (100 Block) and Alley between 7th Street and 8th Street (100 Block), initiated by the City of West Des Moines

It was moved by Trevillyan, second by Messerschmidt to consider the second reading of the ordinance.

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Vote 14-355: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Messerschmidt to approve the second reading of the ordinance.

Vote 14-356: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

It was moved by Trevillyan, second by Messerschmidt to waive the third reading and adopt the ordinance in final form.

Vote 14-357: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

Council member Trevillyan inquired when this Ordinance will take effect.

Mr. Hodne responded the signs will probably be posted in the next couple weeks.

On Item 5(c) Woodland Hills Neighborhood Park Grading, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Messerschmidt to adopt Resolution - Award Contract to Elder Corporation.

Vote 14-358: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Maple Grove West Planned Unit Development, south of the Union Pacific Railroad and west of 98th Street - Amend Parcel A to Include 0.31 Acres of Unzoned Property, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on July 25, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 4-0, with three members absent, the Plan and Zoning Commission recommended City Council approval of the proposed Comprehensive Plan amendment and PUD amendment

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

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It was moved by Messerschmidt, second by Trevillyan to adopt Resolution - Approval of Comprehensive Plan Amendment.

Vote 14-359: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

It was moved by Messerschmidt, second by Trevillyan to consider the first reading of the ordinance.

Vote 14-360: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Messerschmidt to approve the first reading of the ordinance.

Vote 14-361: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider 2013 Sidewalk Improvement Program, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on July 18 and 25, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Messerschmidt to adopt Resolution - Approval of Proposed Resolution of Necessity and Resolution - Order Construction.

Vote 14-362: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider 2014 HMA Resurfacing Program, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 1, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

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It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Des Moines Asphalt and Paving.

Council member Messerschmidt inquired why the resurfacing of EP True Parkway is not being deferred until the completion of the I-35 reconstruction project, when it could all be done at once.

Mr. Hodne responded staff has been monitoring the pavement conditions and felt it was in the best interest of the City to go ahead and resurface EP True Parkway on both sides of I-35 this year and include the section of EP True Parkway that is under I-35 in next year's program.

Vote 14-363: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Cascade Avenue Trunk Sewer, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 1, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to H&W Contracting, LLC.

Vote 14-364: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider 2014 Asphalt Trail Renovation, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 1, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Messerschmidt, second by Trimble to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Grimes Asphalt & Paving.

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Vote 14-365: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 7(a) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 5 (No Parking Zones) - west side of 6th Street (from Maple Street to 170 feet south), west side of 6th Street (from Railroad Avenue to 129 feet north), and south side of Giles Street (from Valley West Drive to 162 feet east), initiated by the City of West Des Moines

It was moved by Trevillyan, second by Messerschmidt to consider the first reading of the ordinance.

Vote 14-366: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Mickelson to approve the first reading of the ordinance.

Vote 14-367: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 8 - Receive, File and/or Refer: no items

On Item 9 - Other Matters

Mayor Gaer requested staff provide a report on why a park cannot be located in the Barnes Estates area.

Gary Scott, Director of Parks and Recreation, stated the City's adopted service level is to have a park within three-quarters of a mile of every resident, and he noted there are four parks within the service radius of the Barnes Estates development: Wild Rose Park, Peony Park, Jaycee Park, and Meadowview Park. He stated the only way the City can force a developer to put in a park is if they are developing an area where a park is planned and included in the Master Parks Plan. For developments with no parks planned, such as the Barnes Estates development, the developer must pay for park or trail improvements that would serve the residents of that development. Staff's recommendation for the Barnes Estates development is to have the developer pay to construct a trail along Ashworth Road.

Council member Mickelson inquired if there are any other improvements that could be paid for by the Barnes Estates development.

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Mr. Scott responded staff did not consider any other options because most of the surrounding parks are fully developed. He noted there is a tennis court yet to be constructed at Wild Rose Park, but staff does not consider that park to be one that serves the Barnes Estates neighborhood. He also stated the City cannot increase its service level at the expense of developers, and since the Barnes Estates neighborhood already meets the service level, it would not be recommended to increase the service level for that neighborhood by adding a new park.

Council member Mickelson inquired if a tunnel can be constructed under the train tracks to make Wild Rose Park more accessible to the Barnes Estate neighborhood.

Mr. Scott responded it would be very difficult to get consent for a tunnel from Union Pacific and there is no access to the railroad tracks, so the City would need to purchase land in between two houses for an access trail. He noted there are other areas of the City, in addition to the Barnes Estates neighborhood, that have to cross an arterial street to access a neighborhood park.

Michelle Foth, 853 65th Street, expressed concerns that there is no park within a safe and close distance from her home, stating her family uses Peony Park, but she does not like that they have to cross Ashworth Road to get there. She also expressed concerns about the areas with no sidewalk along the south side of Ashworth Road, which makes it difficult to access a lighted intersection to cross Ashworth Road.

Ed Bowden, 6220 Brookview Drive, expressed concerns that the sanitary sewer line will not have enough capacity to serve all the properties that are now being offered an opportunity to connect. He stated he hopes this item is deferred until that issue can be addressed.

Mayor Gaer explained that the Barnes Estates preliminary plat was already approved at the July 28, 2014 meeting.

Mr. Bowden stated he thought it was only the first of three readings that was approved.

Mayor Gaer explained that preliminary plats are approved by Resolution, not by Ordinance, so there are not three readings.

Council member Messerschmidt apologized for the miscommunication following the meeting with the residents.

Mayor Gaer noted the developer has to put in an adequate sewer line to service all the lots in their development. He stated if the sewer line needs to be oversized, the City will address that issue.

Mr. Bowden requested clarification on how the construction vehicles will access the development.

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City Manager Tom Hadden responded the construction staging will initially come off of 60th Street, but once the infrastructure is in place, the builders will also use the interior streets to access the development.

Mayor Gaer noted the developer is aware of many of the residents' concerns and has agreed to ask all subcontractors to come off of 60th Street.

Council member Trevillyan noted the City can't prohibit a licensed vehicle from using public streets to access the development, unless it is a semi.

Mayor Gaer inquired what the City can legally do to address these concerns.

City Attorney Dick Scieszinski stated there is a weight limit for trucks to use City streets, but all the construction vehicles that would come through will presumably be under those limits. He noted the City can hold the developer responsible for repairing a damaged street if it can be proven they caused the damage.

Mr. Bowden suggested the developer should construct a temporary street to gain access to the development.

Mayor Gaer stated Mr. Bowden should make that suggestion at the upcoming public meeting with the developer.

Council member Trevillyan requested clarification on how heavy construction vehicles, such as cement trucks, are taken into consideration in the design of city streets.

Duane Wittstock, City Engineer, responded the design standards, including those from 40 years ago, took into consideration an estimated percentage of vehicle trips that would be made by trucks. He noted the wear and tear of most city streets is typically caused more by weather conditions than by vehicle traffic, and if a street is damaged by a vehicle that is in compliance, the damage will be addressed as part of the City's pavement management process. He stated that most of the heavy equipment that will be utilized on the project will be used for the construction of the public improvements, and the developer has agreed to access them off of 60th Street.

Mr. Bowden expressed concerns about the depth of the stormwater detention pond, as he believes the basin depth exceeds the 10 foot maximum depth as required by the Iowa Stormwater Management Manual.

Brian Hemesath, Principal Engineer, responded the City of West Des Moines has not adopted the recommended standard Mr. Bowden is referring to. He stated the detention pond as it is designed is in compliance with the City's standards. He also noted the homeowners association will likely be responsible for the maintenance of the detention pond.

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Mr. Bowden expressed concerns that the detention pond will become overgrown with weeds and get filled up with trash. He requested clarification on a statement made in one of the correspondences he received from the City that stated a detention pond's location is dictated by the State.

Mr. Hemesath explained that Iowa drainage law requires downstream land to receive naturally-flowing stormwater runoff from upstream land and this detention pond's location was selected based upon the City's design standards.

City Attorney Scieszinski noted the City regulates the developer's selection of the detention pond's location, but the City's standards are imposed by other entities at the State and Federal level.

Louis Laurent, 6131 Pommel Place, expressed concerns that the re-grading of the Barnes Estates development might result in increased stormwater drainage onto his property.

Mayor Gaer responded the development's stormwater management plan cannot increase the amount of stormwater drainage on any of the surrounding properties.

Mr. Hemesath stated he will look into how the development is expected to impact the stormwater drainage of Mr. Laurent's property and report the findings to him.

Jeff Robinson, 890 62nd Street, expressed concerns about the lack of a notice to the surrounding property owners that the preliminary plat was moving forward, and he suggested the City require such notices in the future at the expense of the developer. He also expressed concerns that "preliminary plat" could be a misnomer, as the development is essentially finalized after preliminary plat approval, and he expressed concerns about the difficult access to neighborhood parks from his home. He noted he would prefer to see a tennis court constructed at Wild Rose Park rather than the planned trail along Ashworth Road. He also expressed concerns about the vacant Barnes house and inquired who will maintain it if development doesn't occur for several years.

Mayor Gaer responded maintenance of the Barnes property will be the responsibility of the owner, and if they don't maintain it the City will maintain it through Code Enforcement. He requested staff have the Development and Planning Subcommittee review the City's noticing for infill development projects.

Jean Bowden, 6220 Brookview Drive, stated all the neighborhood parks are further than three-quarters of a mile away from her home when travelling by car. She expressed concerns that the sidewalks along the south side of Ashworth Road and the west side of 60th Street are both narrow sidewalks, compared to the trails that are on the opposite sides of those streets. She also expressed concerns about inconsistencies with the naming of streets in her neighborhood. She

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reiterated concerns about the heavy construction vehicle traffic anticipated with this project, and she inquired if the City could place requirements on the phasing of the development.

Mayor Gaer responded as long as the developer is meeting the legal requirements, they can develop in phases as they wish.

City Attorney Scieszinski stated the phases of the development were included in the private agreement between the Barnes family and the developer, so it is completely outside the City's control. He also explained the preliminary plat was simply an administrative approval of what was already laid out in the comprehensive plan and master streets plan and public notice was made to the surrounding property owners years ago of the impending development in compliance with noticing requirements as prescribed by the Iowa Code.

Mayor Gaer requested staff look into the inconsistency with the street names.

Council member Messerschmidt expressed appreciation to the residents for getting involved on this item and stated the Council is working the best as they can within the parameters of the law.

Mayor Gaer reiterated that the City will encourage the developer to cooperate and address the residents' concerns. He also requested that some of the key City staff be present at the upcoming public meetings with the developer to respond to any questions.

The meeting was adjourned at 7:21 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor